

**Notice of Allowability**

Application No.

09/936,921

Examiner

Padmavathi v. Baskar

Applicant(s)

RAOULT ET AL.

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/06/06.
2. ☒ The allowed claim(s) is/are 1, 30, 31, 32, 10, 11, 15, 25 and 29 have been renumbered as 1-9 respectively.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)                       |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance                         |
|   | 9. <input type="checkbox"/> Other _____.  |

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### DETAILED ACTION

1. The after final amendment filed on 3/16/06 is entered.
2. Claims 2, 4-9, 12-14, 16-24 and 26-28 and 33 are canceled.

New claim 34 has been added.

Claims 1, 10 and 25 have been amended.

Claims 1, 3, 10, 11, 15, 25, 29 and 30-34 are pending and are under examination in the application.

3. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Suzannah William P Berridge on 6/6//06

The application has been amended as follows:

Claims 3 and 34 canceled.

Claim 10. (Currently amended) An antigen isolated from a Tropheryma whippelii bacterium according to claim 1, wherein said antigen is a protein of 200 kD determined by polyacrylamide gel electrophoresis using the Western blotting technique, which ~~reacts with a~~ binds to specific monoclonal antibody directed against the bacterium Tropheryma whippelii responsible for Whipple's disease or an antigen of said bacterium, said antibody being produced by a hybridoma deposited in the CNCM of the Institut Pasteur under the Deposit No. 1-2411.

### ***Claim Rejections - 35 USC 102 withdrawn***

3. In view of amendment to the claims and cancellation of claims, the rejection of claims 1 and 10 under 35 U.S.C. 102(b) as being anticipated by Schoedon et al 1997 Journal Infectious diseases, 176; 672-677 is withdrawn

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4. In view of amendment and cancellation of claims, the rejection of claims 1, 30, and 31 under 35 U.S.C. 102(b) as being anticipated by Muller et al 1999 GASTROENTEROLOGY. Vol, 116, No. 4. Part 2, Abstract 910, (Abstract only) is withdrawn

5. In view of amendment and cancellation of claims, the rejection of claims 1, 30, and 31 under 35 U.S.C. 102(b) as being anticipated by Drancourt 1999 Presse Medicale, Vol. 2: No. 8, February 27. 1 999, pp. 435-439 (translated article) is withdrawn.

6. The instant claims define over Schoedon et al or Muller et al 1999 or Drancourt 1999 because none of the prior art discloses Tropheryma whippelii bacterial culture, deposited in the CNCM of the Institute Pasteur under Deposit No. 1-2202. Furthermore, this is the first novel bacterial culture that is grown continuously and is useful for preparing antigen from said bacteria so that it can be used for in vitro diagnosis of diseases associated with infections caused by Tropheryma whippelii.

7. Claims 1, 30, 31, 32, 10, 11, 15, 25 and 29 are allowed and have been renumbered as 1-9 respectively.

### **Conclusion**

8. Papers related to this application may be submitted to Group 1600, AU 1645 by facsimile transmission. Papers should be transmitted via the PTO Fax Center, which receives transmissions 24 hours a day and 7 days a week. The transmission of such papers by facsimile must conform to the notice published in the Official Gazette, 1096 OG 30, November 15, 1989. The Right Fax number is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PMR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

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applications is available through Private PAIR only. For more information about the PMR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PMR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Padma Baskar Ph.D., whose telephone number is ((571) 272-0853. A message may be left on the Examiner's voice mail system. The Examiner can normally be reached on Monday to Friday from 6.30 a.m. to 4.00 p.m. except First Friday of each bi-week.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith can be reached on (571) 272-0864. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.



Padma Baskar Ph.D.

  
LYNETTE R. F. SMITH  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1610